

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTOLIN ANDREWS,

Plaintiff,

No. CIV S-03-1218 EFB P

vs.

SANTOS CERVANTES,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He has filed a motion for the issuance of a discovery order.¹ Dckt. No. 80.

This action proceeds on the amended complaint filed pursuant to this court's March 25, 2009 order. Am. Compl.; Dckt. No. 79. The court has yet to review that complaint pursuant to 28 U.S.C. § 1915A(a). Thus, there is no determination of whether plaintiff has stated a claim for relief. *See* 28 U.S.C. § 1915A(b). Parties may conduct discovery only if there is some claim to which discovery materials would be relevant. *See* Fed. R. Civ. P. 26(b). In the absence of a determination that plaintiff has stated a claim for relief, no factual issues are in dispute and nothing would be gained by discovery. Thus, the court declines to issue a discovery order at this

¹ Plaintiff also alludes to his desire to use this court's electronic filing system. The court already has denied one request to this effect. Dckt. No. 78, 81. This issue will not be revisited.

1 stage of the proceedings.

2 Accordingly, it is ORDERED that plaintiff's July 10, 2009, motion for the issuance of a
3 discovery order is denied.

4 Dated: December 15, 2009.

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6 EDMUND F. BRENNAN
7 UNITED STATES MAGISTRATE JUDGE
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